

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

EPIC TECH LLC,

Plaintiff,

v.

SPINX GAMES LIMITED,

Defendant.

Civil Action No. 1:22-cv-02043-SCJ

**DEFENDANT SPINX GAMES LIMITED’S MOTION FOR ORAL
ARGUMENT**

Pursuant to Section III.J of this Court’s Standing Order Regarding Civil Litigation, Defendant SpinX Games Limited respectfully requests oral argument on Defendant’s Motion to Dismiss Epic Tech LLC’s First Amended Complaint (Dkt. 29). Briefing on this motion has been completed. The oral argument will focus on (i) whether *Lexmark*’s “zone of interest” test applies to Epic Tech’s False Association claim; (ii) if *Lexmark* applies, whether Plaintiff “allege[d] an injury to a commercial interest in reputation or sales” proximately caused by Defendant’s conduct. *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 131–33, 139 (2014); and (iii) whether Plaintiff has stated a claim for trademark dilution. Because the Eleventh Circuit has not yet decided the scope of *Lexmark*’s

application to false association claims under Section 43(a) of the Lanham Act, SpinX believes oral argument on this topic will be particularly helpful.

Defendant submits that Daniel Twomey, an Associate at Kecker, Van Nest & Peters LLP and a 2021 law school graduate, will be chiefly responsible for oral argument if any hearing takes place. Mr. Twomey has been admitted to this Court *pro hac vice*.

Respectfully submitted,

BONDURANT MIXSON & ELMORE LLP

Dated: February 21, 2023

By: /s/ Michael R. Baumrind

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SPINX GAMES LIMITED

CERTIFICATE OF SERVICE, FONT, AND MARGINS

I certify that today, February 21, 2023, I served a true and correct copy of the foregoing document using the Court's CM/ECF system, which will automatically serve a copy on all counsel of record.

I further certify that I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court, pursuant to L.R. 5.1.

/s/ Michael R. Baumrind
Michael R. Baumrind